

Conference Engrossed

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

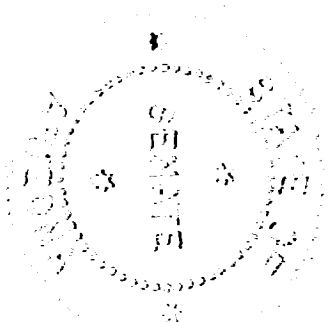
CHAPTER 310

SENATE BILL 1028

AN ACT

AMENDING SECTION 12-1551, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1999, CHAPTER 106, SECTION 1; AMENDING SECTIONS 25-327, 25-502 AND 25-503, ARIZONA REVISED STATUTES; RELATING TO FAMILY SUPPORT DUTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-1551, Arizona Revised Statutes, as amended by
3 Laws 1999, chapter 106, section 1, is amended to read:

4 12-1551. Issuance of writ of execution; limitation; renewal;
5 death of judgment debtor; exemption for child
6 support

7 A. The party in whose favor a judgment is given, at any time within
8 five years after entry of the judgment and within five years after any
9 renewal of the judgment either by affidavit or by an action brought on it,
10 may have a writ of execution or other process issued for its enforcement.

11 B. An execution or other process shall not be issued upon a judgment
12 after the expiration of five years from the date of its entry unless the
13 judgment is renewed by affidavit or process pursuant to section 12-1612 or
14 an action is brought on it within five years from the date of the entry of
15 the judgment or of its renewal.

16 C. The court shall not issue a writ of execution after THE death of
17 the judgment debtor unless it is for the recovery of real or personal
18 property or enforcement of a lien.

19 D. These limitations do not apply to criminal restitution orders
20 entered pursuant to section 13-805 or to judgments and orders for the support
21 of a minor or for those children whose support is extended beyond the age of
22 emancipation pursuant to section 25-501, subsection A or section 25-320,
23 subsection B. It is not necessary to renew criminal restitution orders
24 entered pursuant to section 13-805 or to renew judgments and orders during
25 the minority of the children or during the period of their disability. These
26 actions are limited only as prescribed by section 25-503, subsection ~~†~~ 1.

27 Sec. 2. Section 25-327, Arizona Revised Statutes, is amended to read:

28 25-327. Modification and termination of provisions for
29 maintenance, support and property disposition

30 A. Except as otherwise provided in section 25-317, subsections F and
31 G, the provisions of any decree respecting maintenance or support may be
32 ~~modified only as to installments accruing after notice of the motion for~~
33 ~~modification to the opposing party and~~ OR TERMINATED only on a showing of
34 changed circumstances that are substantial and continuing EXCEPT AS TO ANY
35 AMOUNT THAT MAY HAVE ACCRUED AS AN ARREARAGE BEFORE THE DATE OF NOTICE OF THE
36 MOTION OR ORDER TO SHOW CAUSE TO MODIFY OR TERMINATE. THE ADDITION OF HEALTH
37 INSURANCE COVERAGE AS DEFINED IN SECTION 25-531 OR A CHANGE IN THE
38 AVAILABILITY OF HEALTH INSURANCE COVERAGE MAY CONSTITUTE A CONTINUING AND
39 SUBSTANTIAL CHANGE IN CIRCUMSTANCE. The provisions as to property
40 disposition may not be revoked or modified, unless the court finds the
41 existence of conditions that justify the reopening of a judgment under the
42 laws of this state. Modifications AND TERMINATIONS are effective on the
43 first day of the month following the filing NOTICE of the petition for
44 modification OR TERMINATION unless the court, for good cause shown, orders

1 the change to become effective at a later DIFFERENT date BUT NOT EARLIER THAN
2 THE DATE OF FILING THE PETITION FOR MODIFICATION OR TERMINATION.

3 B. Unless otherwise agreed in writing or expressly provided in the
4 decree, the obligation to pay future maintenance is terminated on the death
5 of either party or the remarriage of the party receiving maintenance.

6 C. Unless otherwise agreed in writing or expressly provided in the
7 decree, provisions for the support of a minor child are not terminated by the
8 death of a parent obligated to support the child. If a parent obligated to
9 pay support dies, the amount of future support may be modified, revoked or
10 commuted to a lump sum payment to the extent just and appropriate in the
11 circumstances and has priority equal to the right for family allowance in
12 section 14-2404. Past due support has priority equal to claims provided for
13 in section 14-3805, subsection A, paragraph 6.

14 D. Notwithstanding any other law, pursuant to a petition filed
15 pursuant to this section the court may suspend the imposition of future
16 interest that accrues on a judgment for support issued pursuant to this
17 article for the period of time that the petitioner is incarcerated or
18 physically or mentally disabled to the extent that the person is unable to
19 maintain employment.

20 Sec. 3. Section 25-502, Arizona Revised Statutes, is amended to read:

21 25-502. Jurisdiction, venue and procedure; additional
22 enforcement provisions

23 A. The superior court has original jurisdiction in proceedings brought
24 by the department, its agents, a person having physical custody of a child
25 or a party to the case to establish, enforce or modify the duties of support
26 as prescribed in this chapter. All such proceedings are civil actions except
27 as provided in section 25-511. Proceedings to enforce the duties of support
28 as prescribed in this chapter may be originated in the county of residence
29 of the respondent or the petitioner or of the child or children who are the
30 subject of the action.

31 B. A proceeding to establish support must originate in the county
32 where the child resides or, if the child resides out of state, the county of
33 this state where the party filing the petition to establish support resides,
34 if either of the following apply APPLIES:

- 35 1. An action does not exist under this title.
36 2. Paternity was established without a court order pursuant to section
37 36-322.

38 C. A person or the department or its agent must file a petition to
39 establish or modify a child support order in the superior court in the county
40 of the last order issued under this title if an order exists in this state.
41 If a person wishes the case transferred to the county of this state where the
42 child resides or, if the child resides out of state, the county of this state
43 where the party requesting the transfer resides, the person must file a
44 request for transfer with the clerk of the superior court that issued the
45 last order.

1 D. A request for transfer pursuant to subsection C of this section
2 must include a petition or motion regarding support, a statement of payments
3 in default, if applicable, and the transmittal fee prescribed in section
4 12-284. The responding party may object to the transfer by filing an
5 objection and affidavit within twenty days after service of the request to
6 transfer.

7 E. If the clerk does not receive an objection and affidavit pursuant
8 to subsection D of this section, the clerk shall transfer the proceeding and
9 all related court files to the other county within thirty days after service
10 of the request to transfer. If the clerk receives an objection and affidavit
11 within the time prescribed in subsection D of this section, the clerk shall
12 notify all parties of the date of the hearing at least ten days before the
13 hearing date. The court may hear evidence relevant only to the issue of the
14 transfer. If the court orders the transfer, the clerk shall transfer the
15 proceeding and court files within ten days after the order.

16 F. The county to which a transfer is made pursuant to subsection D or
17 E of this section shall proceed as if the proceeding were brought in that
18 county originally. A judgment from that county has the same effect and may
19 be enforced or modified as a judgment from the original county.

20 G. The party who petitioned for transfer must pay the postadjudication
21 fee prescribed in section 12-284 to the county to which the proceeding was
22 transferred within twenty TEN days after the transfer order DATE THE CLERK
23 OF THE COURT MAILES THE NOTICE OF THE REQUIREMENT TO PAY THE POSTADJUDICATION
24 FEE. If the party does not pay the fee by that date, the transfer order is
25 automatically nullified and the court clerk shall return the proceeding and
26 all related court files to the original county.

27 H. Except as provided in section 25-510, in title IV-D cases the
28 superior court shall accept for filing any documents that are received
29 through electronic transmission if the electronically reproduced document
30 states that the copy used for the electronic transmission was certified
31 before it was electronically transmitted.

32 I. On filing of the petition and, if applicable, after a transfer is
33 completed, the court shall issue an order requiring the responding party to
34 appear at the time and place set for the hearing on the petition. The
35 petition shall include each person's and child's social security number if
36 known. Service of the order and a copy of the petition shall be as provided
37 in the Arizona rules of civil procedure. If the responding party receives
38 notice of a hearing but fails to appear, the court may issue a child support
39 arrest warrant as provided in article 5 of this chapter and shall require
40 that the responding party pay at the time of arrest an amount set by the
41 court to secure the responding party's release from custody pending an
42 appearance at the next scheduled hearing. The court also may find the party
43 to be in contempt of court pursuant to section 12-864.01 and set an amount
44 to be paid to purge the contempt. Any purge amount set by the court shall
45 supersede the amount required to be set to secure the responding party's

1 release, and the responding party shall pay only the purge amount as a
2 condition of release from custody. Any amounts paid under this section shall
3 be deposited with the clerk of the court or the support payment clearinghouse
4 and credited first to the responding party's current child support obligation
5 and then to arrearages. The court may grant a default judgment for
6 arrearages on a prima facie showing of the amount due.

7 J. The department or its agent or a parent, guardian or custodian may
8 file with the clerk of the superior court a request to establish child
9 support. The request must include a proposed order, the worksheet for child
10 support and a notice of the right to request a hearing within twenty days
11 after service in this state or within thirty days after service outside this
12 state. The request must also include the social security number of the child
13 and each party to the proceeding. The request, proposed order, worksheet and
14 notice shall be served pursuant to the Arizona rules of civil procedure on
15 all parties, and in a title IV-D case, on the department or its agent. In
16 a title IV-D case, the department or its agent may serve all parties by
17 certified mail, return receipt requested. If a party does not request a
18 hearing within the time prescribed by this subsection, the court shall review
19 the proposed order and worksheet and enter an appropriate order or set the
20 matter for a hearing. In a title IV-D case, the department or its agent
21 shall enforce the order.

22 K. Each licensing board or agency that issues professional,
23 recreational or occupational licenses or certificates shall record on the
24 application the social security number of the applicant and shall enter this
25 information in its database in order to aid the department of economic
26 security in locating parents or their assets or to enforce child support
27 orders. This subsection does not apply to a license issued pursuant to title
28 17 that is not issued by an automated drawing system. If a licensing board
29 or agency allows an applicant to use a number other than the social security
30 number on the face of the license or certificate while the licensing board
31 or agency keeps the social security number on file, the licensing board or
32 agency shall advise an applicant of this fact.

33 Sec. 4. Section 25-503, Arizona Revised Statutes, is amended to read:

34 25-503. Order for support; methods of payment; modification;
35 termination; statute of limitations; judgment on
36 arrearages; notice; security

37 A. In any proceeding in which there is at issue the support of a
38 child, the court may order either or both parents to pay any amount necessary
39 for the support of the child. If a personal check for support payments and
40 handling fees is rightfully dishonored by the payor bank or other drawee, any
41 subsequent support payments and handling fees shall be paid only by cash,
42 money order, cashier's check, traveler's check or certified check. The
43 department may collect from the drawer of a dishonored check or draft an
44 amount allowed pursuant to section 44-6852. Pursuant to sections 35-146 and
45 35-147, the department shall deposit monies collected pursuant to this

1 subsection in a child support enforcement administration fund. If a party
2 required to pay support other than by personal check demonstrates full and
3 timely payment for twenty-four consecutive months, that party may pay support
4 by personal check if these payments are for the full amount, are timely
5 tendered and are not rightfully dishonored by the payor bank or other drawee.
6 On a showing of good cause, the court may order that the party or parties
7 required to pay support give reasonable security for these payments. If the
8 court sets an appearance bond and the obligor fails to appear, the bond is
9 forfeited and credited against any support owed by the party required to pay
10 support. This subsection does not apply to payments that are made by means
11 of a wage assignment.

12 B. On a showing that an income withholding order has been ineffective
13 to secure the timely payment of support and that an amount equal to six
14 months of current support has accrued, the court shall require the obligor
15 to give security, post bond or give some other guarantee to secure overdue
16 support.

17 C. In title IV-D cases, and in all other cases subject to an income
18 withholding order issued on or after January 1, 1994, after notice to the
19 party entitled to receive support, the department or its agent may direct the
20 party obligated to pay support or other payor to make payment to the support
21 payment clearinghouse. The department or its agent shall provide notice by
22 first class mail.

23 D. The obligation for current child support shall be fully met before
24 any payments under an order of assignment may be applied to the payment of
25 arrearages. If a party is obligated to pay support for more than one family
26 and the amount available is not sufficient to meet the total combined current
27 support obligation, any monies shall be allocated to each family as follows:

28 1. The amount of current support ordered in each case shall be added
29 to obtain the total support obligation.

30 2. The ordered amount in each case shall be divided by the total
31 support obligation to obtain a percentage of the total amount due.

32 3. The amount available from the obligor's income shall be multiplied
33 by the percentage under paragraph 2 of this subsection to obtain the amount
34 to be allocated to each family.

35 ~~E. If a payment is not received within ten days after the date in the~~
36 ~~court order for payment of support that is to be paid directly to the party~~
37 ~~entitled to receive support, the support order may be enforced by all civil~~
38 ~~remedies provided by law.~~

39 F. E. Any order for child support may be modified or revoked
40 TERMINATED on a showing of changed circumstance that is substantial and
41 continuing, except as to any amount that may have accrued as an arrearage
42 before the date of the filing of the notice of the motion or order to show
43 cause to modify or revoke TERMINATE. The addition of health insurance
44 coverage as defined in section 25-531 or a change in the availability of
45 health insurance coverage may constitute a continuing and substantial change

1 in circumstance. ~~The order of modification or revocation may be made~~
2 ~~retroactive to the date of the filing of the notice of motion or order to~~
3 ~~show cause to modify or to revoke or to any date after the filing.~~
4 MODIFICATION AND TERMINATION ARE EFFECTIVE ON THE FIRST DAY OF THE MONTH
5 FOLLOWING NOTICE OF THE PETITION FOR MODIFICATION OR TERMINATION UNLESS THE
6 COURT, FOR GOOD CAUSE SHOWN, ORDERS THE CHANGE TO BECOME EFFECTIVE AT A
7 DIFFERENT DATE BUT NOT EARLIER THAN THE DATE OF FILING THE PETITION FOR
8 MODIFICATION OR TERMINATION. The order of modification or revocation
9 TERMINATION may include an award of attorney fees and court costs to the
10 prevailing party.

11 ~~G.~~ F. Notwithstanding subsection ~~F~~ E of this section, in a title
12 IV-D case a party, or the department or its agent if there is an assignment
13 of rights under section 46-407, may request every three years that an order
14 for child support be reviewed and, if appropriate, adjusted. The request may
15 be made without a specific showing of a changed circumstance that is
16 substantial and continuing. The department or its agent shall conduct the
17 review in accordance with the child support guidelines of this state. If
18 appropriate, the department shall file a petition in the superior court to
19 adjust the support amount. Every three years the department or its agent
20 shall notify the parties of their right to request a review of the order for
21 support. The department or its agent shall notify the parties by first class
22 mail at their last known address or by including the notice in an order.

23 ~~H.~~ G. If a party in a title IV-D case requests a review and
24 adjustment sooner than three years, the party shall demonstrate a changed
25 circumstance that is substantial and continuing.

26 ~~I.~~ H. The right of a party entitled to receive support or the
27 department to receive child support payments as provided in the court order
28 vests as each installment falls due. Each vested child support installment
29 is enforceable as a final judgment by operation of law. Unless it is reduced
30 to a written money judgment, an unpaid child support judgment that became a
31 judgment by operation of law expires three years after the emancipation of
32 the last remaining unemancipated child who was included in the court order.
33 Beginning on January 1, 2000, child support orders, including modified
34 orders, must notify the parties of this expiration date. The filing of a
35 request for a written money judgment before the end of that period preserves
36 the right to judgment until the court grants a judgment or the court denies
37 the request. A request does not need to be filed within three years if:

38 1. The court later determines that the actions or conduct of an
39 obligor impeded the establishment of a written money judgment, including
40 avoiding service or notice of that action, changing a name or social security
41 number or leaving the state where the last support order was entered without
42 notifying the party to whom support is ordered to be paid or the court or the
43 department of that party's residential and mailing addresses.

1 2. The court later finds that the obligor threatened, defrauded or
2 wrongfully coerced the obligee into not filing a request to reduce any
3 support arrearages to a written money judgment.

4 ~~I.~~ I. The department or its agent or a party entitled to receive
5 support may file a request for judgment for support arrearages not later than
6 three years after the emancipation of all of the children who were the
7 subject of the court order. In such a proceeding there is no bar to
8 establishing a money judgment for all of the unpaid child support arrearages
9 for all of the children who were the subject of the court order.
10 Notwithstanding any other law, formal written judgments for support and for
11 associated costs and attorney fees are exempt from renewal and are
12 enforceable until paid in full. If emancipation is disputed, this subsection
13 shall be liberally construed to effect its intention of diminishing the
14 limitation on the collection of child support arrearages.

15 ~~K.~~ J. If the department or its agent or a party entitled to receive
16 child support or spousal maintenance if the spousal maintenance is combined
17 with a child support order OR THE DEPARTMENT OR ITS AGENT ENFORCING AN ORDER
18 OF SUPPORT has not received court ordered payments, the PARTY ENTITLED TO
19 RECEIVE SUPPORT OR SPOUSAL MAINTENANCE OR THE department or its agent or a
20 party may file with the clerk of the superior court a request for judgment
21 of arrearages and an affidavit indicating the name of the party obligated to
22 pay support and the amount of the arrearages. The request must include notice
23 of the requirements of this section and the right to request a hearing within
24 twenty days after service in this state or within thirty days after service
25 outside this state. The request, affidavit and notice must be served
26 pursuant to the Arizona rules of civil procedure on all parties including the
27 department or its agents in title IV-D cases. In a title IV-D case, the
28 department or its agent may serve all parties by certified mail, return
29 receipt requested. Within twenty days after service in this state or within
30 thirty days after service outside this state, a party may file a request for
31 a hearing if the arrearage amount or the identity of the person is in
32 dispute. If a hearing is not requested within the time provided, or if the
33 court finds that the objection is unfounded, the court must review the
34 affidavit and grant an appropriate judgment against the party obligated to
35 pay support.

36 ~~L.~~ K. If the clerk or support payment clearinghouse is unable to
37 deliver payments for a period of three months due to the failure of a party
38 to whom the support has been ordered to be paid to notify the clerk or
39 support payment clearinghouse of a change in address, the clerk or support
40 payment clearinghouse shall return the payments to the obligor.

41 L. IF THE OBLIGEE OF A CHILD SUPPORT ORDER MARRIES THE OBLIGOR OF THE
42 CHILD SUPPORT ORDER, THAT ORDER AUTOMATICALLY TERMINATES ON THE LAST DAY OF
43 THE MONTH IN WHICH THE MARRIAGE TAKES PLACE AND ARREARAGES DO NOT ACCRUE
44 AFTER THAT DATE. HOWEVER, THE OBLIGEE OR THE STATE MAY COLLECT CHILD SUPPORT
45 ARREARAGES THAT ACCRUED BEFORE THAT DATE. THE OBLIGEE, THE OBLIGOR OR THE

1 DEPARTMENT OR ITS AGENT IN A TITLE IV-D CASE MAY FILE A REQUEST OR
2 STIPULATION TO TERMINATE OR ADJUST ANY EXISTING ORDER OF ASSIGNMENT, PURSUANT
3 TO SECTION 25-504 OR SECTION 25-505.01.

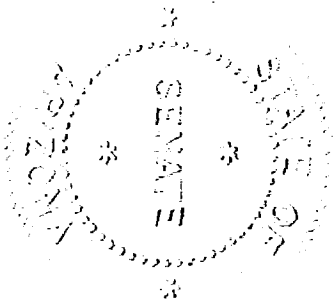
4 M. For the purposes of subsections ~~H~~ and ~~I~~ of this section, a
5 child is emancipated:

- 6 1. On the date of the child's marriage.
- 7 2. On the child's eighteenth birthday.
- 8 3. When the child is adopted.
- 9 4. When the child dies.

10 5. On the termination of the support obligation if support is extended
11 beyond the age of majority pursuant to section 25-501, subsection A or
12 section 25-320, subsections B and C.

APPROVED BY THE GOVERNOR MAY 28, 2002.

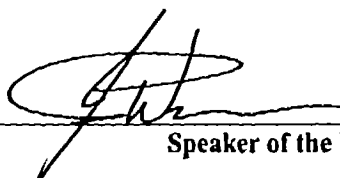
FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 29, 2002.



Passed the House April 15, 20 02,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting



Speaker of the House




Chief Clerk of the House

Passed the Senate February 4, 20 02,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting



President of the Senate

Norma Lowe

Secretary of the Senate
Asst.

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1028

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 20, 2002,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 9, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 21st day of May, 2002,

at 10:21 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 28th day of

May, 2002,

at 10:49 o'clock A M.

[Signature]
Governor of Arizona

S.B. 1028

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 29 day of May, 2002

at 11:19 o'clock A M.

[Signature]
Secretary of State